



[Docket No. FR- 6349-N-01]

Waivers and Alternative Requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) Grantees

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice governs Community Development Block Grant disaster recovery (CDBG-DR) funds awarded under the appropriations acts identified in the Table of Contents. Specifically, this notice provides waivers and establishes alternative requirements for certain CDBG-DR grantees that have submitted waiver requests for grants provided under the public laws cited in this notice.

DATES: Applicability Date: [Insert date five days after date of publication in the **FEDERAL REGISTER.**]

FOR FURTHER INFORMATION CONTACT: Jessie Handforth Kome, Director, Office of Block Grant Assistance, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone number 202–708–3587. Individuals can dial 7-1-1 to access the Telecommunications Relay Service (TRS), which permits users to make text-based calls, including Text Telephone (TTY) and Speech to Speech (STS) calls. Individuals who require an alternative aid or service to communicate effectively with HUD should email the point of contact listed below and provide a brief description of their preferred method of communication. Facsimile inquiries may be sent to Ms. Kome at 202–708–0033. (Except for the “800” number, these telephone numbers are not toll-free.) Email inquiries may be sent to disaster_recovery@hud.gov.

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I. Authority to Grant Waivers

Each of the appropriations acts cited in the Table of Contents authorize the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or use by the recipient of grant funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment. HUD may also exercise its regulatory waiver authority under 24 CFR 5.110, 91.600, and 570.5.

All waivers and alternative requirements authorized in this notice are based upon a determination by the Secretary that good cause exists, and that the waiver or alternative requirement is not inconsistent with the overall purposes of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCDA). The good cause for each waiver and alternative requirement is summarized in this notice.

II. Pub. L. 115-56 and 115-123 Waivers and Alternative Requirements:

II. A. *Waiver and Alternative Requirements Related to Tourism Marketing (U.S. Virgin Islands only)*

On August 14, 2018, HUD published a *Federal Register* notice (the "August 2018 Notice") that granted the U.S. Virgin Islands ("USVI") a waiver and alternative requirements related to tourism and marketing activities (83 FR 40314, 40322). USVI submitted a request to continue the tourism and marketing activities described in these previously granted waiver and alternative requirements until December 15, 2022. The previously granted waiver and alternative requirements expired May 19, 2022. Based on the good cause summarized below, HUD is granting the waiver and alternative requirements described in this section of this notice until December 15, 2022.

The cap on the activity costs remains unchanged. The grantee can expend no more than \$25,000,000 total on tourism and marketing activities authorized by this and previous waivers

and alternative requirements.

In section IV.D.16. of the August 2018 Notice, the Department granted the USVI a waiver of 42 U.S.C. 5305(a) to the extent necessary to create a new eligible activity and use up to \$5,000,000 of CDBG-DR funds to promote travel to disaster-impacted areas, which at the time was the amount included in the USVI's action plan and substantial amendments submitted to and approved by HUD. In section IV.5. of the *Federal Register* notice published on February 19, 2019 (84 FR 4836, 4845) (the "February 2019 Notice"), the Department amended this waiver and alternative requirement to authorize the use of an additional \$20,000,000 of the USVI's CDBG-DR funds for tourism and marketing activities. HUD required the waiver and alternative requirements to expire two years after the USVI's first draw of its CDBG-DR funds allocated in the *Federal Register* notice published on February 9, 2018. In section IV.C. of the *Federal Register* notice published on January 6, 2021 (86 FR 569, 575), HUD extended the waiver and alternative requirements, in accordance with the August 2018 Notice and February 2019 Notice, as referenced above, for one year due to issues related to the Coronavirus Disease 2019 (COVID-19) pandemic. This one-year extension expired on May 19, 2022.

Tourism is a significant part of the USVI's economy and was severely impacted by Hurricanes Irma and Maria and further impacted by the COVID-19 pandemic. The expiration of the waiver and alternative requirements for tourism and marketing activities limits the ability of the USVI to use the CDBG-DR funds during its peak tourism season, interrupting economic development gains made by the USVI in its use of CDBG-DR funds for disaster recovery. As a result, the Secretary has determined that good cause exists to provide a replacement waiver and alternative requirements as requested. Accordingly, HUD hereby grants an additional waiver of 42 U.S.C. 5305(a) to the extent necessary to make eligible use of no more than \$25,000,000 for assistance to promote the USVI in general and specific components of the islands, which amount shall include any funds expended in accordance with the waiver and alternative requirement in paragraph IV.D.16. of the August 2018 Notice, as amended, that expired May 19, 2022.

This additional waiver is subject to the following alternative requirements. The funding expended under this waiver and alternative requirement must be for assistance for tourism marketing, provided the assisted activities are designed to support tourism to the disaster-impacted areas related to the effects of Hurricanes Irma and Maria. Any CDBG–DR tourism expenditures may not supplant USVI or local government funds for tourism marketing. The USVI shall coordinate its tourism promotion and marketing activities with its designated Opportunity Zones. The grantee must use existing contracts already procured to carry out the activities allowed through this waiver and alternative requirement unless HUD approves the use of additional contracts in writing. Any additional procurement actions related to carrying out activities authorized by this waiver and alternative requirement must be submitted to HUD for approval to check for compliance with the waiver and alternative requirements provided herein. Additionally, no elected officials shall appear in tourism marketing materials financed with CDBG–DR funds. Given the importance of tourism to the overall economy, HUD is authorizing this use of funds without regard to unmet housing need. The waiver that expired May 19, 2022, required the grantee to develop metrics to demonstrate the impact of CDBG–DR expenditures on the tourism sector of the economy and to identify those metrics in the initial substantial amendment submitted. The metrics developed by the grantee also shall apply to the use of grant funds under this waiver and alternative requirement. HUD may further extend the waiver and alternative requirements administratively, if requested by the USVI and good cause for such an extension exists at that time.

In addition, although the grantee has not been authorized to draw grant funds for its tourism marketing activity since May 20, 2022, as of the applicability date of this notice, HUD is adopting a waiver and alternative requirement to modify 24 CFR 570.489(b) to the extent necessary to permit the grantee to reimburse its costs and the costs of its subrecipients from May 22, 2022 through the applicability date of this notice to the extent that they comply with the tourism and marketing waiver and alternative requirement authorized by this section II.A.

II.B. *Extension of Waiver and Alternative Requirement Related to Rental Assistance to Tenants (Commonwealth of Puerto Rico only)*

The Commonwealth of Puerto Rico (Commonwealth) has submitted a request for an extension of HUD's previously granted waiver and alternative requirement authorizing the expansion of the definition of public service at 42 U.S.C. 5305(a)(8) to include the "provision of rental assistance to disaster-impacted households for up to 24 months," subject to the 15 percent cap on public services and to revise the expiration date for the waiver and alternative requirement by one year. The previously granted waiver and alternative requirement expires September 30, 2022. While the Commonwealth requested an extension for 36 months, HUD has reviewed the good cause justification and consulted with the Office of Community Planning and Development's (CPD) partners in Public and Indian Housing (PIH) and determined that extending this waiver for 12 months would allow enough time for any chosen projects to transition to Project-based Vouchers (PBVs), as described below. Accordingly, HUD hereby grants an extension of the waiver and alternative requirement described in this notice and establishes a revised expiration date of September 30, 2023.

In section VI.4. of the *Federal Register* notice published on February 19, 2019 (84 FR 4836, 4845), the Department granted the Commonwealth a waiver of 42 U.S.C. 5305(a)(8) to include the following activity: provision of rental assistance to disaster-impacted households for up to 24 months, subject to the 15 percent cap on public services. The Department granted the original waiver for several reasons, including: to support the goal of preventing homelessness and minimizing the time that disaster-impacted households are experiencing homelessness by providing rental assistance and re-housing services, by linking disaster-impacted households with services that can help them become stable and self-sufficient, and to provide rental assistance to many elderly citizens that were at immediate risk of experiencing homelessness because they could not afford to pay rent without assistance. The one-year extension provided in this notice continues to advance these and other policies that were supported by the original

waiver.

In addition, declining economic conditions in the Commonwealth and the sustained decrease of Puerto Rico Department of Housing's (PRDOH) Law 173 funding, both exacerbated by Hurricanes Irma and Maria, leave CDBG-DR as the only available funding source to provide interim rental assistance to these low- and moderate-income (LMI) elderly households.

PRDOH's Law 173 Program subsidizes the rent of thousands of low-income elderly tenants in 49 housing facilities for people over the age of 60 throughout the Commonwealth. The Puerto Rico Public Housing Administration (PRPHA) has been in negotiations with PRDOH to provide PBVs to address the existing need for rental assistance. A one-year extension of the waiver and alternative requirements would meet this need temporarily to permit PRPHA and PRDOH to confirm and conclude the transaction for PBVs without displacing applicants or program participants.

Based on the good cause summarized above, the Secretary hereby extends the waiver and alternative requirements in the February 2019 Notice for tenant-based rental assistance until September 30, 2023, subject to the following additional alternative requirements. The Commonwealth shall limit the application intake to properties and applicants of existing cases under PRDOH's Law 173. All existing and new contracts or award agreements granted under the tenant-based rental assistance must provide the benefit for no more than the overall period of 36 months (including the 24 months granted in the original waiver and the additional 12-month extension granted herein).

In no case shall the tenant-based rental assistance under this waiver and alternative requirements extend beyond the expiration date of the waiver, even if a beneficiary has not yet received 36 months of assistance. This waiver and the alternative requirements shall remain in effect until September 30, 2023, after which the Commonwealth will no longer be able to use CDBG-DR funds for any tenant-based rental assistance.

Adrienne Todman,
Deputy Secretary.

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